

## Fishery Conservation and Management

## § 648.22

the impacts associated with the exemptions is provided:

(i) The analysis of the impacts of the requested exemptions is included as part of the annual quota specification packages submitted by the Council; or

(ii) For proposals that require exemptions that extend beyond the scope of the analysis provided by the Council, applicants may be required to provide additional analysis of impacts of the exemptions before issuance of an EFP will be considered, as specified in the EFP regulations at § 648.745(b).

[61 FR 34968, July 3, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 648.21, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTE: At 75 FR 11450, Mar. 11, 2010, § 648.21 was amended by adding paragraphs (b)(3)(iii) and (iv), effective Jan. 1, 2011. For the convenience of the user, the added text is set forth as follows:

### § 648.21 Procedures for determining initial annual amounts.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(iii) The butterfish mortality cap will be allocated to the *Loligo* fishery as follows: Trimester I—65 percent; Trimester II—3.3 percent; and Trimester III—31.7 percent.

(iv) Any underages of the butterfish mortality cap for Trimesters I or II will be applied to Trimester III of the same year, and any overages of the butterfish mortality cap for Trimesters I and II will be applied to Trimester III of the same year.

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### § 648.22 Closure of the fishery.

(a) *Closing procedures.* (1) NMFS shall close the directed mackerel fishery in the EEZ when the Regional Administrator projects that 90 percent of the mackerel DAH is harvested, if such a closure is necessary to prevent the DAH from being exceeded. The closure of the directed fishery shall be in effect for the remainder of that fishing period, with incidental catches allowed as specified at § 648.25. When the Regional Administrator projects that the DAH for mackerel shall be landed, NMFS shall close the mackerel fishery in the

EEZ and the incidental catches specified for mackerel at § 648.25 will be prohibited.

(2) NMFS shall close the directed fishery in the EEZ for *Loligo* when the Regional Administrator projects that 90 percent of the *Loligo* quota is harvested in Trimesters I and II, and when 95 percent of the *Loligo* DAH has been harvested in Trimester III. The closure of the directed fishery shall be in effect for the remainder of that fishing period, with incidental catches allowed as specified at § 648.25.

(i) If the Regional Administrator determines that the Trimester I closure threshold has been underharvested by 25 percent or more, then the amount of the underharvest shall be reallocated to Trimester II and Trimester III in equal amounts, through notice in the FEDERAL REGISTER.

(ii) [Reserved]

(3) NMFS shall close the directed *Illex* fishery in the EEZ when the Regional Administrator projects that 95 percent of the *Illex* DAH is harvested. The closure of the directed fishery shall be in effect for the remainder of that fishing period, with incidental catches allowed as specified at § 648.25.

(4) NMFS shall close the directed butterfish fishery in the EEZ when the Regional Administrator projects that 80 percent of the butterfish DAH is harvested. The closure of the directed fishery shall be in effect for the remainder of that fishing period, with incidental catches allowed as specified at § 648.25.

(b) *Notification.* Upon determining that a closure is necessary, the Assistant Administrator will notify, in advance of the closure, the Executive Directors of the MAFMC, NEFMC, and SAFMC; mail notification of the closure to all holders of mackerel, squid, and butterfish fishery permits at least 72 hours before the effective date of the closure; provide adequate notice of the closure to recreational participants in the fishery; and publish notification of closure in the FEDERAL REGISTER.

[61 FR 34968, July 3, 1996, as amended at 62 FR 8637, Feb. 26, 1997; 65 FR 16345, Mar. 28, 2000; 65 FR 81765, Dec. 27, 2000; 66 FR 13028, Mar. 2, 2001; 69 FR 4864, Feb. 2, 2004; 72 FR 4217, Jan. 30, 2007; 72 FR 8632, Feb. 27, 2007; 73 FR 18449, Apr. 4, 2008; 75 FR 5540, Feb. 3, 2010]

## § 648.23

EDITORIAL NOTE: At 72 FR 4217, Jan. 30, 2007, § 648.22(d) was added; however, the amendment could not be incorporated because the text was not provided.

EFFECTIVE DATE NOTE: At 75 FR 11450, Mar. 11, 2010, § 648.22 was amended by adding paragraph (a)(5), effective Jan. 1, 2011. For the convenience of the user, the added text is set forth as follows:

### § 648.22 Closure of the fishery.

(a) \* \* \*

(5) NMFS shall close the directed fishery in the EEZ for *Loligo* when the Regional Administrator projects that 80 percent of the butterfish mortality cap is harvested in Trimester I and/or 90 percent of the butterfish mortality cap is harvested in Trimester III.

\* \* \* \* \*

### § 648.23 Gear restrictions.

(a) *Mesh restrictions and exemptions.*

(1) Vessels subject to the mesh restrictions outlined in this paragraph (a) may not have available for immediate use any net, or any piece of net, with a mesh size smaller than that required.

(2) Owners or operators of otter trawl vessels possessing 1,000 lb (0.45 mt) or more of butterfish harvested in or from the EEZ may only fish with nets having a minimum codend mesh of 3 inches (76 mm) diamond mesh, inside stretch measure, applied throughout the codend for at least 100 continuous meshes forward of the terminus of the net, or for codends with less than 100 meshes, the minimum mesh size codend shall be a minimum of one-third of the net, measured from the terminus of the codend to the headrope.

(3) Owners or operators of otter trawl vessels possessing *Loligo* harvested in or from the EEZ may only fish with nets having a minimum mesh size of 2½ inches (54 mm), during Trimesters I (Jan–Apr) and III (Sept–Dec), or 1½ inches (48 mm), during Trimester II (May–Aug), diamond mesh, inside stretch measure, applied throughout the codend for at least 150 continuous meshes forward of the terminus of the net, or for codends with less than 150 meshes, the minimum mesh size codend shall be a minimum of one-third of the net measured from the terminus of the codend to the headrope, unless they are fishing consistent with

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exceptions specified in paragraph (b) of this section.

(i) *Net obstruction or constriction.* Owners or operators of otter trawl vessels fishing for and/or possessing *Loligo* shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net that results in an effective mesh opening of less than 2½ inches (54 mm), during Trimesters I (Jan–Apr) and III (Sept–Dec), or 1½ inches (48 mm), during Trimester II (May–Aug), diamond mesh, inside stretch measure. “Top of the regulated portion of the net” means the 50 percent of the entire regulated portion of the net that would not be in contact with the ocean bottom if, during a tow, the regulated portion of the net were laid flat on the ocean floor. However, owners or operators of otter trawl vessels fishing for and/or possessing *Loligo* may use net strengtheners (covers), splitting straps, and/or bull ropes or wire around the entire circumference of the codend, provided they do not have a mesh opening of less than 5 inches (12.7 cm) diamond mesh, inside stretch measure. For the purposes of this requirement, head ropes are not to be considered part of the top of the regulated portion of a trawl net.

(ii) *Illex fishery.* Owners or operators of otter trawl vessels possessing *Loligo* harvested in or from the EEZ and fishing during the months of June, July, August, and September for *Illex* seaward of the following coordinates (copies of a map depicting this area are available from the Regional Administrator upon request) are exempt from the *Loligo* gear requirements specified at paragraph (a)(3) of this section, provided they do not have available for immediate use, as defined in paragraph (b) of this section, any net, or any piece of net, with a mesh size less than 1½ inches (48 mm) diamond mesh or any net, or any piece of net, with mesh that is rigged in a manner that is prohibited by paragraph (a)(3) of this section, when the vessel is landward of the specified coordinates.

Point	N. Lat.	W. Long.
M1 .....	43°58.0'	67°22.0'
M2 .....	43°50.0'	68°35.0'
M3 .....	43°30.0'	69°40.0'